



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2017-1054]

RIN 1625-AA08

Special Local Regulation; Chesapeake Bay, between Sandy Point and Kent Island, MD

AGENCY: Coast Guard, DHS.

ACTION: Supplemental notice of proposed rulemaking; reopening of public comment period.

SUMMARY: The Coast Guard proposes to amend its notice of proposed rulemaking and reopen the public comment period for a special local regulation for certain waters of the Chesapeake Bay between Sandy Point, Anne Arundel County, MD and Kent Island, Queen Anne's County, MD, during the Bay Bridge Paddle on June 2, 2018 (rain date of June 3, 2018) published in the Federal Register on January 12, 2018. This proposed rulemaking would prohibit persons and vessels from being in the regulated area unless authorized by the Captain of the Port Maryland-National Capital Region or Coast Guard Patrol Commander.

DATES: Comments and related material must be received by the Coast Guard on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number USCG-2017-1054 using the Federal eRulemaking Portal at <http://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the SUPPLEMENTARY INFORMATION section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Mr. Ronald Houck, U.S. Coast Guard Sector Maryland-National Capital Region; telephone 410-576-2674, e-mail Ronald.L.Houck@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
COTP	Captain of the Port
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
SNPRM	Supplemental notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background, Purpose, and Legal Basis

The Coast Guard published a Notice of Proposed Rulemaking on January 12, 2018 (83 FR 1597), proposing to establish a special local regulation for the Bay Bridge Paddle, on June 2, 2018 (rain date of June 3, 2018). The comment period closed February 12, 2018. The Coast Guard received one comment on the original request for comments.

Subsequent to the Coast Guard publishing the notice of proposed rulemaking, ABC Events, Inc., notified the Coast Guard that as a result of a meeting with the bridge authority a change of the elite paddler race course location is necessary. We are issuing

this supplemental proposal to amend the proposed special local regulation to increase the size of the paddle race area, and reopen the comment period to account for this change. The Coast Guard will accept and review any comments received between the close of the comment period and the publication of this supplemental notice of proposed rulemaking.

The purpose of this rulemaking is to protect event participants, spectators and transiting vessels on certain waters of the Chesapeake Bay before, during, and after the scheduled event. The Coast Guard proposes this rulemaking under authority in 33 U.S.C. 1233, which authorizes the Coast Guard to establish and define special local regulations.

III. Discussion of Proposed Rule

This proposed rule would create a temporary special local regulation on certain waters of the Chesapeake Bay for the Bay Bridge Paddle. This special local regulation would expand the proposed regulated area northward of the north bridge (westbound span) of the William P. Lane, Jr. (US-50/301) Memorial Bridges from that area described in the original published notice of proposed rulemaking. Bridge rehabilitation work along the eastern portion of the north bridge (westbound span) of the William P. Lane, Jr. (US-50/301) Memorial Bridges includes the placement of barges and other marine equipment in the waterway. Allowing the proposed paddling event to proceed along its original race course would adversely affect both the bridge work activities and event participants. The expanded area allows the event planner an alternative to mitigate the risk posed to event participants by altering the race course northward of that area.

The revised proposed regulated area would cover all navigable waters of the Chesapeake Bay, adjacent to the shoreline at Sandy Point State Park and between and adjacent to the spans of the William P. Lane Jr. Memorial Bridges, from shoreline to

shoreline, bounded to the north by a line drawn from the western shoreline at latitude 39°01'05.23" N., longitude 076°23'47.93" W.; thence eastward to latitude 39°01'02.08" N., longitude 076°22'40.24" W.; thence southeastward to eastern shoreline at latitude 38°59'13.70" N., longitude 076°19'58.40" W.; and bounded to the south by a line drawn parallel and 500 yards south of the south bridge span that originates from the western shoreline at latitude 39°00'17.08" N., longitude 076°24'28.36" W.; thence southward to latitude 38°59'38.36" N., longitude 076°23'59.67" W.; thence eastward to latitude 38°59'26.93" N., longitude 076°23'25.53" W.; thence eastward to the eastern shoreline at latitude 38°58'40.32" N., longitude 076°20'10.45" W, located between Sandy Point and Kent Island, MD. The duration of the regulated area is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled 8 a.m. until 12:30 p.m. paddle race event.

All other regulatory provisions in the original proposed rulemaking remain the same. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to

control regulatory costs through a budgeting process. This SNPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the SNPRM has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size and duration of the regulated area, which would impact a small designated area of the Chesapeake Bay for six hours. The Coast Guard would issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the status of the regulated area. Moreover, the rule would allow vessels to seek permission to enter the regulated area, and vessel traffic would be able to safely transit the regulated area once the COTP Coast Guard Patrol Commander deems it safe to do so.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the regulated area may be small entities, for the reasons stated in section IV.A above this proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would

not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023-01, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves implementation of a temporary special local regulation lasting for 6 hours. The category of water activities includes but is not limited to sail boat regattas, boat parades, power boat racing, swimming events, crew racing, canoe and sail board racing. Normally such actions are categorically excluded from further review under paragraph L[61] of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 01. A

preliminary Record of Environmental Consideration supporting this determination is available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have

provided. For more about privacy and the docket, visit
<http://www.regulations.gov/privacyNotice>.

Documents mentioned in this SNPRM as being available in the docket, and all public comments, will be in our online docket at <http://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100--SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 33 CFR 1.05-1.

2. Add § 100.501T05-1054 to read as follows:

§ 100.501T05-1054 Special Local Regulation; Chesapeake Bay, between Sandy Point and Kent Island, MD.

(a) Regulated area. The following location is a regulated area: All navigable waters of the Chesapeake Bay, adjacent to the shoreline at Sandy Point State Park and between and adjacent to the spans of the William P. Lane Jr. Memorial Bridges, from shoreline to shoreline, bounded to the north by a line drawn from the western shoreline at latitude 39°01'05.23" N., longitude 076°23'47.93" W.; thence eastward to latitude

39°01'02.08" N., longitude 076°22'40.24" W.; thence southeastward to eastern shoreline at latitude 38°59'13.70" N., longitude 076°19'58.40" W.; and bounded to the south by a line drawn parallel and 500 yards south of the south bridge span that originates from the western shoreline at latitude 39°00'17.08" N., longitude 076°24'28.36" W.; thence southward to latitude 38°59'38.36" N., longitude 076°23'59.67" W.; thence eastward to latitude 38°59'26.93" N., longitude 076°23'25.53" W.; thence eastward to the eastern shoreline at latitude 38°58'40.32" N., longitude 076°20'10.45" W., located between Sandy Point and Kent Island, MD. All coordinates reference North American Datum 83 (NAD 1983).

(b) Definitions. (1) Captain of the Port (COTP) Maryland-National Capital Region means the Commander, U.S. Coast Guard Sector Maryland-National Capital Region or any Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port to act on his behalf.

(2) Coast Guard Patrol Commander means a commissioned, warrant, or petty officer of the U.S. Coast Guard who has been designated by the Commander, Coast Guard Sector Maryland-National Capital Region.

(3) Official Patrol means any vessel assigned or approved by Commander, Coast Guard Sector Maryland-National Capital Region with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(4) Participant means all persons and vessels participating in the Bay Bridge Paddle event under the auspices of the Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Sector Maryland-National Capital Region.

(c) Special local regulations: (1) The COTP or Coast Guard Patrol Commander may forbid and control the movement of all vessels and persons, including event participants, in the regulated area. When hailed or signaled by an official patrol, a vessel or person in the regulated area shall immediately comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both. The Coast Guard Patrol Commander may terminate the event, or the operation of any support vessel participating in the event, at any time it is deemed necessary for the protection of life or property.

(2) Except for participants and vessels already at berth, all persons and vessels within the regulated area at the time it is implemented are to depart the regulated area.

(3) Persons and vessels desiring to transit, moor, or anchor within the regulated area must first obtain authorization from the COTP Maryland-National Capital Region or Coast Guard Patrol Commander. Prior to the enforcement period, vessels or persons seeking permission to transit, moor, or anchor within the area may contact the COTP Maryland-National Capital Region at telephone number 410-576-2693 or on Marine Band Radio, VHF-FM channel 16 (156.8 MHz). During the enforcement period, vessels or persons seeking permission to transit, moor, or anchor within the area may contact the Coast Guard Patrol Commander on Marine Band Radio, VHF-FM channel 16 (156.8 MHz) for direction.

(4) The Coast Guard may be assisted in the patrol and enforcement of the regulated area by other Federal, State, and local agencies. The Coast Guard Patrol Commander and official patrol vessels enforcing this regulated area can be contacted on marine band radio VHF-FM channel 16 (156.8 MHz) and channel 22A (157.1 MHz).

(5) The Coast Guard will publish a notice in the Fifth Coast Guard District Local Notice to Mariners and issue a marine information broadcast on VHF-FM marine band radio announcing specific event date and times.

(d) Enforcement period. This section will be enforced from 7 a.m. to 1:30 p.m. on June 2, 2018, and, if necessary due to inclement weather, from 7 a.m. to 1:30 p.m. on June 3, 2018.

Dated: April 4, 2018

Lonnie P. Harrison, Jr.
Captain, U.S. Coast Guard
Captain of the Port Maryland-National Capital Region.

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